

Vicki Bronson

From: Scott McDaniel [smcdaniel@mhla-law.com]
Sent: Thursday, October 16, 2008 9:23 AM
To: Richard Garren; Louis Bullock
Cc: Jinger Waller; Vicki Bronson; Craig A. Mirkes
Subject: OK v Tyson - RFPs to Simmons and Peterson
Importance: High

Rick and Louis:

We have confirmed that the PSA between Simmons and Peterson did not have an index, thus we can't go the direction you suggested on our meet and confer teleconference. This brings us back to our position that the requests are clearly over broad and objectionable. Simmons and Peterson would like to re-urge plaintiffs to narrow their requests by identifying the topics or specific subjects for which they seek discovery so that the RFPs will be properly tailored to information that is relevant or will lead to the discovery of admissible evidence. As Vicki and I shared with you, this is a private transaction that both parties deem proprietary and highly confidential.

As an alternative attempt on our Clients' part to reach an accommodation to our disagreement over the RFPs, our Clients are willing to disclose (under the auspices of the Confidentiality Order) those elements of the PSA that establish that: (1) this was an asset sale that did not transfer any potential liabilities arising in this case from Peterson to Simmons; (2) the summary list of assets sold to show that none of them are in the IRW; and (3) poultry grower contracts were not transferred, but rather, the decision for each grower to enter a contract with Simmons was an individual matter for decision between the parties to the potential contract.

This information will demonstrate that Peterson no longer contracts with growers in the IRW, Peterson's status as a defendant in this case responding to plaintiffs' claims for dates prior to the closing remains the same; Simmons has not assumed any Peterson liability for activities related to the IRW prior to or after the sale; and to the extent that assets formerly owned/operated by Peterson have some business connection to the IRW, e.g., the feed mill in Decatur, you can determine that they are now owned by Simmons. We believe that this is the limit of discoverable information and sets the bounds of necessary disclosure of this private transaction for purposes of this litigation. If you can agree to this, we can move towards responding and producing the documents. If this is not acceptable, then either plaintiffs' must revise their requests to address the over breadth problems, or we will have to object, which may place this matter in the hands of the court.

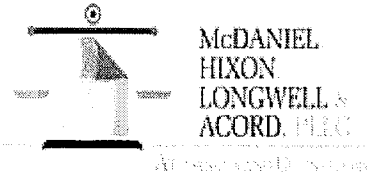
Either way, we need your response by the end of business today so we can meet the Monday response deadline. If we need to talk again by telephone, please feel free to call.

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